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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,419	10/29/2001	Mario Mazza	BFE-5407US	1942
29200	7590	10/30/2003		
BAXTER HEALTHCARE CORPORATION RENAL DIVISION 1 BAXTER PARKWAY DF3-3E DEERFIELD, IL 60015			EXAMINER MENON, KRISHNAN S	
			ART UNIT 1723	PAPER NUMBER

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,419

Applicant(s)

MAZZA ET AL.

Examiner

Krishnan S Menon

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claims 1-7 and 16-25 are pending.

Election/Restrictions

Claims 8-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper dated 8/25/03. However, applicants are reminded that since the product claims are elected, process claims would be allowable if product claims are found allowable and if the process claims contain all the limitations or are dependent on the product claims

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,6,7,18,19,21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 92/11046.

Claim 1 and 16: WO 92/11046 teaches a cartridge or machine having an inlet and an outlet (see fig 2) in line with a hemodialysis machine for passage of water or solution through the cartridge (page 2 line 26-page 4 line 20), cartridge containing solid sodium bicarbonate, and an acid (page 3 lines 13-23) to prevent pH increase.

Claims 3,4, 6,7,18,19,21 and 22: the acid is organic acid like acetic or citric (page 3 lines 32-35), the acid composition as in claim 7,21 and 22 (see page lines 5-9).

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Claims 23 and 25: WO teaches a cartridge having the concentration of acid and bicarbonate as in the claims (page 2 line 26-page 4 line 20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segers et al (US 5,383,324) in view of Jonsson et al (US 4,784,495).

Segers teaches a cartridge (figures) containing sodium bicarbonate and an acid in solid form for hemodialysis, the acid in an amount sufficient to prevent pH increase as in claims 1 and 16 (abstract, col 5 lines 5-50).

Segers does not teach the cartridge as being "for connection in line in a hemodialysis machine". Jonsson teaches such cartridges which have 'powder concentrates' for hemodialysis (see figures 4 and 7, and col 3 lines 60-65; col 11 lines 42-57). It would be obvious to one of ordinary skill in the art at the time of invention to use the teaching of Jonsson in the teaching of Segers for attachment of the cartridge to hemodialysis machines as taught by Jonsson.

Re claims 5 and 20, both references do not teach tartaric acid. However, it would be obvious to one of ordinary skill in the art at the time of invention that tartaric acid is a carboxylic acid, equivalent to citric acid and others as taught by Segers (col 5 lines 35-41).

Limitations in the rest of the instant claims are taught by Segers and/or Jonsson, including the composition of acid in the bicarbonate.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It may please be noted that US patents issued to Taylor, US 6,274,103 B1 and US 6,605,214 B1 claim similar cartridges containing solid bicarbonate and acids for hemodialysis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 703-305-5999. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Krishnan Menon
Patent Examiner


JOSEPH DRODGE
PRIMARY EXAMINER